IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

THOMAS RINK, :

Plaintiff,

:

v. : 3:14-CV-02154

(Judge Mariani)

NORTHEASTERN EDUCATIONAL INTERMEDIATE UNIT 19, et al.,

.

Defendants.

<u>ORDER</u>

AND NOW, THIS 15 DAY OF DECEMBER, 2015, IT IS HEREBY ORDERED THAT:

- Defendants' Motion to Dismiss (Doc. 19) is GRANTED IN PART AND DENIED IN PART, as follows:
 - a. The Motion is **DENIED** with respect to Counts I, III, and IV.
 - b. The Motion is GRANTED with respect to Count II. Count II is
 DISMISSED WITH LEAVE TO AMEND.
 - c. The Motion is **DENIED** with respect to qualified immunity, **WITHOUT PREJUDICE** to Defendants' right to reassert their claim for qualified immunity at an appropriate time.
 - d. The Motion is **DENIED** with respect to the demands for punitive damages in Counts I III against the individual Defendants.

- e. The Motion is **GRANTED** with respect to the demands for punitive damages in Counts I III against Defendant NEIU. The punitive damage demands in Counts I III are **STRICKEN** as against Defendant NEIU only.
- f. The Motion is GRANTED with respect to the Official Capacity claims against the individual Defendants. All Official Capacity claims against the individual Defendants are DISMISSED WITHOUT LEAVE TO AMEND.
- g. The Motion is **DENIED** with respect to the Individual Capacity claims against the individual Defendants.
- h. The Motion is **DENIED** with respect to the demand for Attorneys' Fees in Count IV.
- 2. Plaintiff shall have **FOURTEEN (14) DAYS** from the date of this Order to submit an Amended Complaint that corrects the defects for which leave to amend was granted in the Court's accompanying Memorandum Opinion.

Robert D. Mariani

United States District Judge